House of Representatives

File No. 769

General Assembly

January Session, 2003

(Reprint of File No. 486)

Substitute House Bill No. 6402
As Amended by House Amendment
Schedule "B"

Approved by the Legislative Commissioner
May 23, 2003

AN ACT CONCERNING REVISIONS TO CERTAIN ENVIRONMENTAL QUALITY PROGRAMS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (c) of section 22a-478 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2003*):

(c) The funding of an eligible water quality project shall be pursuant to a project funding agreement between the state, acting by and through the commissioner, and the municipality undertaking such project and shall be evidenced by a project fund obligation or grant account loan obligation, or both, or an interim funding obligation of such municipality issued in accordance with section 22a-479. A project funding agreement shall be in a form prescribed by the commissioner. Eligible water quality projects shall be funded as follows:

(1) A nonpoint source pollution abatement project shall receive a project grant of seventy-five per cent of the cost of the project determined to be eligible by the commissioner.

(2) A combined sewer project shall receive **[**(1)**]** (A) a project grant of fifty per cent of the cost of the project, **[**which cost shall be the cost the federal Environmental Protection Agency uses in making grants pursuant to Part 35 of the federal Construction Grant Regulations and Titles II and VI of the federal Water Pollution Control Act, as amended; and (2)**]** and (B) a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible water quality project costs.

(3) A construction contract eligible for financing awarded by a municipality on or after July 1, 1999, as a project undertaken for nitrogen removal shall receive a project grant of thirty per cent of the cost of the project associated with nitrogen removal, a twenty per cent grant for the balance of the cost of the project not related to nitrogen removal, and a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible water quality project costs. Nitrogen removal projects under design or construction on July 1, 1999, and projects that have been constructed but have not received permanent, clean water fund financing, on July 1, 1999, shall be eligible to receive a project grant of thirty per cent **[**grant**]** of the cost of the project associated with nitrogen removal, a twenty per cent grant for the balance of the cost of the project not related to nitrogen removal, and a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible water quality project costs.

(4) If supplemental federal grant funds are available for Clean Water Fund projects specifically related to the clean-up of Long Island Sound that are funded on or after July 1, 2003, a distressed municipality, as defined in section 32-9p, may receive a combination of state and federal grants in an amount not to exceed fifty per cent of the cost of the project associated with nitrogen removal, a twenty per cent grant for the balance of the cost of the project not related to nitrogen removal, and a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the allowable water quality project costs.

(5) A municipality with a water pollution control project, the construction of which began on or after July 1, 2003, which has (A) a population of five thousand or less, or (B) a population of greater than five thousand which has a discrete area containing a population of less than five thousand that is not contiguous with the existing sewerage system, shall be eligible to receive a grant in the amount of twenty-five per cent of the design and construction phase of eligible project costs, and a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible water quality project costs.

(6) Any other eligible water quality project shall receive (A) a project grant of twenty per cent of the eligible cost, **[**which cost shall be the cost the federal Environmental Protection Agency uses for grants pursuant to said Part 35 and said Titles II and VI,**]** and (B) a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible project cost.

(7) Project agreements to fund eligible project costs with grants from the Clean Water Fund that were executed during or after the fiscal year beginning July 1, 2003, shall not be reduced according to the provisions of the regulations adopted under section 22a-482.

(8) On or after July 1, 2006, all eligible water quality projects eligible for funding shall receive a loan of one hundred per cent of the eligible costs and shall not receive a project grant.

(9) On or after July 1, 2002, eligible water quality projects that exclusively address sewer collection and conveyance system improvements may receive a loan for one hundred per cent of the eligible costs **[**and shall**]** provided such project does not receive a project grant. Any such sewer collection and conveyance system improvement project shall be rated, ranked, and funded separately from other water pollution control projects and shall be considered only if it is highly consistent with the state's conservation and development plan, or is primarily needed as the most cost effective solution to an existing area-wide pollution problem and incorporates

minimal capacity for growth.

(10) All loans made in accordance with the provisions of this section for an eligible water quality project shall bear an interest rate of two per cent per annum. The commissioner may allow any project fund obligation, grant account loan obligation or interim funding obligation for an eligible water quality project to be repaid by a borrowing municipality prior to maturity without penalty.

Sec. 2. Subsection (e) of section 22a-478 of the general statutes is amended by adding subdivision (3) as follows (*Effective July 1, 2003*):

(NEW) (3) If supplemental federal grant funds are available for Clean Water Fund projects specifically related to the clean-up of Long Island Sound that are funded on or after July 1, 2003, a distressed municipality, as defined in section 32-9p, may receive a combination of state and federal grants in an amount not to exceed one hundred per cent of the cost, approved by the commissioner, for the planning phase of an eligible water quality project for nitrogen removal.

Sec. 3. Subsections (a) and (b) of section 22a-133m of the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2003*):

(a) An urban sites remedial action program is established to identify, evaluate, plan for and undertake the remediation of polluted real property. **[**which is deemed vital to the economic development needs of the state.**]**

(b) The Commissioner of Economic and Community Development, in consultation with the Commissioner of Environmental Protection, shall establish the priority of sites for evaluation and remediation based upon the following factors: (1) The estimated cost of evaluating and remediating the site, if known; (2) the anticipated complexity of an evaluation of the site; (3) the estimated schedule for completing an evaluation; (4) the potential economic development benefits of the site to the state of Connecticut; **[**and**]** (5) whether the site would not

otherwise be remediated without the assistance of this program; and (6) any other factors which the commissioners deem relevant. No real property shall be eligible for evaluation or remediation under this section unless **[**: (A) The**]** the Commissioner of Economic and Community Development finds that the state owns the site or otherwise has or obtains the power to approve the type of development which first occurs on the site after remediation. **[**; and (B) the Commissioner of Environmental Protection is unable to determine the responsible party for the pollution or the cleanup of the site, or the responsible party is not in timely compliance with orders issued by the commissioner to provide remedial action, or the commissioner has not issued a final decision on an order to a responsible party to provide remedial action because of (i) a request for a hearing on an order, or (ii) an order issued is subject to an appeal pending before a court.**]** Except for any site proposed for acquisition under subsection (e) of this section, no real property shall be eligible for evaluation or remediation under this section unless the site is located in a distressed municipality, as defined in section 32-9p, or a targeted investment community, as defined in section 32-222. For purposes of this section, "responsible party" means any person, as defined in section 22a-2, who created a source of pollution on the site or an owner of the site during the investigation or remediation funded pursuant to this section.

Sec. 4. Subsection (h) of section 22a-133m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2003*):

(h) The Commissioner of Environmental Protection and the Commissioner of Economic and Community Development shall jointly identify urban community sites known to have, or suspected to have, environmental contamination which, if remediated and developed, will improve the urban environment. The Commissioner of Environmental Protection and the Commissioner of Economic and Community Development shall jointly establish the priority of such sites for evaluation and remediation based upon the following factors: (1) The potential benefits of remediation to the environment; (2) the

estimated cost of evaluating and remediating the site, if known; (3) the potential benefits to the local community of such site; (4) community support for remediation and redevelopment of such site; (5) the commitment from investors or the municipality to redevelop the site; and (6) any other factors which the commissioners deem relevant. No real property shall be eligible for evaluation and remediation under this subsection unless **[**: (A) The Commissioner of Environmental Protection is unable to determine the responsible party, or the responsible party is not in timely compliance with orders issued by the commissioner to provide remedial action, or the commissioner has not issued a final decision on an order to a responsible party to provide remedial action because of a request for a hearing on an order or an issued order is subject to an appeal pending before a court; (B)**]** (A) the site is located in a distressed municipality, as defined in section 32-9p, a targeted investment community, as defined in section 32-222, or an enterprise corridor zone, as defined in section 32-80, or in such other municipality as the Commissioner of Economic and Community Development may designate**, [**;**]** and **[**(C)**]** (B) the site is not undergoing evaluation or remediation under subsections (a) to (g), inclusive, of this section.

Sec. 5. Subdivision (1) of section 22a-134 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2003*):

(1) "Transfer of establishment" means any transaction or proceeding through which an establishment undergoes a change in ownership, but does not mean (A) conveyance or extinguishment of an easement, (B) conveyance of an establishment through a foreclosure, as defined in subsection (b) of section 22a-452f or foreclosure of a municipal tax lien, (C) conveyance of a deed in lieu of foreclosure to a lender, as defined in and that qualifies for the secured lender exemption pursuant to subsection (b) of section 22a-452f, (D) conveyance of a security interest, as defined in subdivision (7) of subsection (b) of section 22a-452f, (E) termination of a lease and conveyance, assignment or execution of a lease for a period less than ninety-nine years including conveyance,

assignment or execution of a lease with options or similar terms that will extend the period of the leasehold to ninety-nine years, or from the commencement of the leasehold, ninety-nine years, including conveyance, assignment or execution of a lease with options or similar terms that will extend the period of the leasehold to ninety-nine years, or from the **[**commence**]** commencement of the leasehold, (F) any change in ownership approved by the Probate Court, (G) devolution of title to a surviving joint tenant, or to a trustee, executor, or administrator under the terms of a testamentary trust or will, or by intestate succession, (H) corporate reorganization not substantially affecting the ownership of the establishment, (I) the issuance of stock or other securities of an entity which owns or operates an establishment, (J) the transfer of stock, securities or other ownership interests representing less than forty per cent of the ownership of the entity that owns or operates the establishment, (K) any conveyance of an interest in an establishment where the transferor is the sibling, spouse, child, parent, grandparent, child of a sibling or sibling of a parent of the transferee, (L) conveyance of an interest in an establishment to a trustee of an inter vivos trust created by the transferor solely for the benefit of one or more of the sibling, spouse, child, parent, grandchild, child of a sibling or sibling of a parent of the transferor, (M) any conveyance of a portion of a parcel upon which portion no establishment is or has been located and upon which there has not occurred a discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste, provided either the area of such portion is not greater than fifty per cent of the area of such parcel or written notice of such proposed conveyance and an environmental condition assessment form for such parcel is provided to the commissioner sixty days prior to such conveyance, (N) conveyance of a service station, as defined in subdivision (5) of this section, (O) any conveyance of an establishment which, prior to July 1, 1997, had been developed solely for residential use and such use has not changed, (P) any conveyance of an establishment to any entity created or operating under chapter 130 or 132, or to an urban rehabilitation agency, as defined in section 8-292, or to a municipality under section 32-224, or to the Connecticut

Development Authority or any subsidiary of the authority, (Q) any conveyance of a parcel in connection with the acquisition of properties to effectuate the development of the overall project, as defined in section 32-651, (R) the conversion of a general or limited partnership to a limited liability company under section 34-199, (S) the transfer of general partnership property held in the names of all of its general partners to a general partnership which includes as general partners immediately after the transfer all of the same persons as were general partners immediately prior to the transfer, (T) the transfer of general partnership property held in the names of all of its general partners to a limited liability company which includes as members immediately after the transfer all of the same persons as were general partners immediately prior to the transfer, or (U) acquisition of an establishment by any governmental or quasi-governmental condemning authority.

Sec. 6. Subdivisions (10) and (11) of section 22a-134 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2003*):

(10) "Form I" means a written certification by the transferor of an establishment on a form prescribed and provided by the commissioner that: (A) No discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or a hazardous substance has occurred at the establishment which certification is based on an investigation of the parcel in accordance with prevailing standards and guidelines, or (B) no discharge spillage, uncontrolled loss, seepage or filtration of hazardous waste has occurred at the establishment <u>based upon an investigation of the parcel in accordance with the prevailing standards and guidelines</u> and the commissioner has determined, in writing, or a licensed environmental professional has verified that any discharge, spillage, uncontrolled loss, seepage or filtration of a hazardous substance has been remediated in accordance with the remediation standards;

(11) "Form II" means a written certification by the transferor of an

establishment on a form prescribed and provided by the commissioner that the parcel has been investigated in accordance with prevailing standards and guidelines and that (A) any pollution caused by a discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or a hazardous substance which has occurred from the establishment has been remediated in accordance with the remediation standards and that the remediation has been approved in writing by the commissioner or has been verified pursuant to section 22a-133x or section 22a-134a, as amended by this act, in **[**a**]** writing attached to such form by a licensed environmental professional to have been performed in accordance with the remediation standards, (B) the commissioner has determined in writing or a licensed environmental professional has verified pursuant to section 22a-133x or section 22a-134a, as amended by this act, in **[**a**]** writing attached to the form that no remediation is necessary to achieve compliance with the remediation standards, or (C) a Form IV verification previously submitted to the commissioner and since the date of the submission of **[**said**]** the Form IV, no discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or a hazardous substance has occurred at the establishment, which certification is based on an investigation of the parcel in accordance with prevailing standards and guidelines.

Sec. 7. Subsection (d) of section 22a-134a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2003*):

(d) The certifying party to a Form I, Form II, Form III or Form IV shall (1) upon receipt of a written request from the commissioner, provide to the commissioner copies of all technical plans, reports and other supporting documentation relating to the investigation of the parcel or remediation of the establishment as specified in the commissioner's written request, and (2) simultaneously submit with the submission of a Form I, **[**Form II,**]** Form III or Form IV to the commissioner a complete environmental condition assessment form and shall certify to the commissioner, in writing, that the information contained in such form is correct and accurate to the best of the

certifying party's knowledge and belief.

Sec. 8. Subsection (i) of section 22a-134a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2003*):

(i) The certifying party to a Form III or Form IV shall (1) publish notice of the remediation, in accordance with the schedule submitted pursuant to this section, in a newspaper having a substantial circulation in the area affected by the establishment, (2) notify the director of health of the municipality where the establishment is located of the remediation, and (3) either (A) erect and maintain for at least thirty days in a legible condition a sign not less than six feet by four feet on the establishment, which sign shall be clearly visible from the public highway, and shall include the words "ENVIRONMENTAL CLEAN-UP IN PROGRESS AT THIS SITE. FOR FURTHER INFORMATION CONTACT:" and include a telephone number for an office from which any interested person may obtain additional information about the remediation, or (B) mail notice of the remediation to each owner of record of property which abuts the **[**establishment**]** parcel, at the address for such property on the last-completed grand list of the municipality where the establishment is located.

Sec. 9. Subsection (m) of section 22a-134a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2003*):

(m) Failure of the commissioner to notify any party in accordance with the provisions of this section in no way limits the ability of the commissioner to enforce the provisions of sections 22a-134 to **[**22a-134f**]** 22a-134e, inclusive, as amended by this act.

Sec. 10. Section 22a-174g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2003*):

As part of the state's implementation plan under the federal Clean

Air Act, the Commissioner of Environmental Protection may establish a program to allow the sale, purchase and use of motor vehicles which comply with any regulations adopted by the commissioner which implement the California motor vehicles emissions standards for purposes of generating any emission reduction credits under said act. Nothing in this section shall prohibit the Commissioner of Environmental Protection from establishing a program to require the sale, purchase and use of motor vehicles which comply with any regulations adopted by the commissioner which implement the California motor vehicle emissions standards. Such regulations may incorporate by reference the California motor vehicle emission standards set forth in final regulations issued by the California Air Resources Board pursuant to Title 13 of the California Code of Regulations and promulgated under the authority of Division 26 of the California Health and Safety Code, as may be amended from time to time.

Sec. 11. Section 23-8b of the general statutes is amended by adding subsection (f) as follows (*Effective July 1, 2003*):

(NEW) (f) Notwithstanding any provision of the general statutes, special police officers for utility companies, appointed by the Commissioner of Public Safety pursuant to section 29-19, and conservation officers and special conservation officers and patrolmen, appointed by the Commissioner of Environmental Protection pursuant to section 26-5, shall have jurisdiction over any land purchased by the state under the terms of any such contract and said officers shall have the same authority to make arrests on such lands as they have under section 29-18 for lands owned by the Department of Environmental Protection.

Sec. 12. (NEW) (*Effective October 1, 2003*) (a) As used in this section:

(1) "Double walled underground storage tank" means an underground storage tank that is listed by Underwriters Laboratories, Incorporated and that is constructed using two complete shells to

provide both primary and secondary containment, and having a continuous three-hundred-sixty degree interstitial space between the two shells which interstitial space shall be continuously monitored using inert gas or liquid, vacuum monitoring, electronic monitoring, mechanical monitoring or any other monitoring method approved in writing by the commissioner before being installed or used;

(2) "Double walled underground storage tank system" means one or more double walled underground storage tanks connected by double walled piping and utilizing double walled piping to connect the underground storage tank to any associated equipment;

(3) "Hazardous substance" means a substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, but does not include any substance regulated as a hazardous waste under subsection (c) of section 22a-449 of the general statutes or any mixture of such substances and petroleum;

(4) "Petroleum" means crude oil, crude oil fractions and refined petroleum fractions, including gasoline, kerosene, heating oils and diesel fuels;

(5) "Underground storage tank" means a tank or combination of tanks, including underground pipes connected thereto, used to contain an accumulation of petroleum or hazardous substances, whose volume is ten per cent or more beneath the surface of the ground, including the volume of underground pipes connected thereto; and

(6) "Underground storage tank system" means an underground storage tank and any associated ancillary equipment and containment system.

(b) No person or municipality shall install, on or after October 1, 2003, an underground storage tank system and no person or municipality shall operate or use, an underground storage tank system installed after October 1, 2003, unless such underground storage tank

system is a double walled underground storage tank system. This section shall not apply to a residential underground storage tank system, as defined in section 22a-449a of the general statutes.

This act shall take effect as follows:	
Section 1	*July 1, 2003*
Sec. 2	*July 1, 2003*
Sec. 3	*July 1, 2003*
Sec. 4	*July 1, 2003*
Sec. 5	*July 1, 2003*
Sec. 6	*July 1, 2003*
Sec. 7	*July 1, 2003*
Sec. 8	*July 1, 2003*
Sec. 9	*July 1, 2003*
Sec. 10	*July 1, 2003*
Sec. 11	*July 1, 2003*
Sec. 12	*October 1, 2003*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 $	FY 05 $
Department of Environmental Protection	GO Bond Funds – Cost	See Below	See Below
	Environmental Quality/Clean Air Account - Savings	See Below	See Below

Municipal Impact:

Municipalities	Effect	FY 04 $	FY 05 $
Various Municipalities	Savings	Potential Significant	Potential Significant

Explanation

The bill makes a series of changes to the funding provisions of the Clean Water Fund. Under existing law, small community water pollution control projects are eligible for a grant of 20% of eligible costs. The bill increases these grants to 25%, resulting in a savings to various municipalities. According to the Department of Environmental Protection, approximately 17 small community projects are anticipated over the next ten years and grant funding is estimated at $2-$3 million per year. This amount would increase, by approximately 20% ($400,000-$600,000), the effective increase of going from a 20% to 25% grant.

The legislation also enables distressed municipalities to receive a combination of state and federal grants of up to 50% of the cost of a project associated with nitrogen removal, a 20% grant for the balance of the project not related to nitrogen removal, and a loan for the

remainder of project costs, only if supplemental federal funds are available. In addition, if the federal funds are available, the municipality may receive a combination of state and federal funds in an amount not to exceed 100% of cost for the planning phase of a nitrogen removal project. This could result in a significant savings to various municipalities through the use of the potential increase in federal funds. Making certain towns eligible to receive a 20% grant for the cost of the water quality project balance not related to nitrogen removal will increase state costs and result in a savings to municipalities. The increased costs would vary by project but are estimated at 7% to 8% of the total project cost.

Providing that project agreements entered into after July 1, 2003 can allow for costs for more capacity than is needed to serve existing needs, will increase funds to recipient municipalities.

All of the changes in the bill increasing clean water project costs to the state, and therefore the potential need for additional bond authorizations, would increase costs for debt service in future years. The unallocated GO bond fund balance under this program is approximately $66 million and the Revenue Bond balance is $282 million as of the March 2003 Bond Commission meeting.

The bill also allows for a site to be eligible under the urban sites remedial action program without requiring the DEP to first issue orders to the parties responsible for the contamination. This change is anticipated to result in a minimal workload savings due to elimination of the need to issue an order to a defunct party. The unallocated GO bond fund balance under this program is approximately $7.4 million as of the March 2003 Bond Commission meeting.

Changes made to the Transfer Act exemptions and forms are not anticipated to result in a change in workload to the DEP and not result in a fiscal impact.

Authorizing the DEP to incorporate, by reference, the California motor vehicle emission standards into Connecticut regulations is

anticipated to result in a savings of approximately $50,000 in man-hours, or approximately one-half of a full-time employee.

Requiring, as of October 1, 2003, that for all new commercial underground storage tanks (UST) people and municipalities can only install double-walled UST systems, will increase costs to towns installing tanks. To the extent that municipalities are not currently installing these tanks they will incur additional costs. The double-walled tanks are estimated to cost approximately 10% more than other tanks. This is based on an average cost for a 10,000-gallon single-wall tank with installation of $47,200 and a double-wall tank costing $52,000. The installation of these tanks is anticipated to provide protection against potential future costs to remediate spills.

Allowing for conservation officers, special conservation officers, special police officers and the patrolmen appointed by the Commissioner of the DEP to have joint jurisdiction over the KELDA lands will provide for a more efficient mechanism for enforcement.

House "B" removes a provision of the bill that clarified the exemption for a conveyance by including the requirement that no release of hazardous substances has occurred. This change results in no fiscal impact.

OLR Bill Analysis
sHB 6402 (as amended by House "B")*

AN ACT CONCERNING REVISIONS TO CERTAIN ENVIRONMENTAL QUALITY PROGRAMS

SUMMARY:
This bill:

1. changes the funding allotment for various water quality projects;

2. makes additional polluted property eligible for assessment and remediation under the Urban Sites Remedial Action Program and changes the conditions under which the commissioner may remediate particular properties;

3. excludes from Transfer Act requirements the conveyance of an establishment through foreclosure of a municipal tax lien;

4. requires that all new commercial underground storage tanks other than residential storage tanks be of double-walled construction;

5. authorizes the environmental protection commissioner to incorporate California vehicle emissions standards by reference; and

6. gives certain utility company special police officers, conservation officers, special conservation officers, and patrolmen joint jurisdiction over the Kelda lands.

The bill also makes technical changes.

*House Amendment "B" eliminates a provision that would have excluded from a Transfer Act exemption certain property on which a leak of a hazardous substance took place.

EFFECTIVE DATE: July 1, 2003, except for the double-walled underground storage system requirements, which takes effect October 1, 2003.

WATER QUALITY PROJECT FUNDING

The bill makes a number of changes in the way the state funds various water quality projects.

Nitrogen Removal

By law, municipalities that awarded contracts for nitrogen removal on or after July 1, 1999 are eligible for grants for 30% of the cost associated with nitrogen removal and a loan for the remainder, not exceeding 100% of the eligible project cost. The bill also makes these towns eligible for a grant of 20% of the project cost balance unrelated to nitrogen removal.

Municipalities whose nitrogen removal projects were in the design or construction phase on July 1, 1999, and projects which had not received Clean Water Fund financing by that date, are by law eligible for a 30% project grant. The bill makes these towns instead eligible for a (1) 30% grant for the costs associated with nitrogen removal; (2) 20% grant for the project costs unrelated to nitrogen removal; and (3) loan for the remainder of the project costs, not to exceed 100% of the eligible costs.

For certain projects, the bill makes distressed municipalities eligible for (1) combined state and federal grants of up to 50% of the cost of nitrogen removal; (2) a 20% grant for the project balance not related to nitrogen removal; and (3) a loan for the remainder of the project costs, not to exceed 100% of the allowable project costs. Distressed municipalities are eligible for these grants and loans only if supplemental federal grant funds are available for Clean Water Fund projects specifically related to the clean up of Long Island Sound funded on or after July 1, 2003. If such money is available, a distressed municipality also may receive combined state and federal grants for up to 100% of the cost, as approved by the Department of Environmental Protection (DEP) commissioner, of the planning phase of a nitrogen removal project.

Combined Sewer Projects

By law, combined sewer projects are eligible for grants for 50% of the cost of the project and a loan for the remainder, not to exceed 100% of

the eligible project cost. Project cost is determined by a federal grant-making formula. The bill eliminates the reference to the federal grant-making formula, thus project cost will be determined by state regulations.

Water Pollution Control Projects

The bill makes certain towns with water pollution control projects built on or after July 1, 2003 eligible for a grant for 25% of the design and construction phase of eligible projects costs, and a loan for the remainder of the project costs, up to 100% of the eligible water quality project cost. This applies to towns that (1) have a population of 5,000 or less, or (2) include a population of less than 5,000 living in an area that is not adjoining an existing sewer system.

Other Water Quality Projects

By law, other eligible water quality projects receive grants for 20% of their cost and a loan for the remainder. The bill determines eligible project costs according to state regulations instead of by a federal formula.

Allowance of Reserve Capacity

By law, all agreements to fund eligible projects with Clean Water Fund grants must deduct from the grant the cost of building in more capacity than is needed to serve existing needs. The bill requires that all such agreements entered into after July 1, 2003 allow such costs.

Sewer Collection and Conveyance Systems

By law, eligible water quality projects that exclusively address sewer collection and conveyance system improvements may receive loans, but not grants, for their eligible costs. The bill allows projects to receive grants if they do not also receive loans.

REMEDIATION OF URBAN COMMUNITY SITES

Under current law, the commissioners of the Department of Economic and Community Development (DECD) and DEP cannot evaluate and remediate certain contaminated property whose remediation will benefit the state under the Urban Sites Remedial Action Program

(USRAP) unless the DECD commissioner finds the state owns the site or has the authority to approve the type of development that first occurs on the site after remediation, and (1) the DEP commissioner is unable to determine who is responsible for the contamination, (2) the responsible party has not complied with a remediation order, or (3) a remediation order is being appealed or a hearing has been requested. The bill allows for the evaluation and remediation of property regardless of these last three factors.

The bill also prohibits the three factors from barring an evaluation and remediation in a similar program where the DEP and DECD commissioners identify urban community sites whose remediation can benefit a local community. By law, USRAP sites with state significance must be located in a distressed municipality or targeted investment community while those with local significance can also be in an enterprise corridor zone.

The bill removes a requirement that a property be deemed vital to the economic development of the state for it to be included in the USRAP. It also adds to the list of factors the DECD commissioner must consider in establishing whether the site would be remediated without the program's assistance.

TRANSFER ACT

The Transfer Act regulates the sale or other conveyance of any real property or business operation where (1) more than 100 kilograms of hazardous waste was generated in any one month; (2) hazardous waste was recycled, reclaimed, reused, stored, handled, treated, transported, or disposed of; or (3) dry cleaning, furniture stripping, or vehicle body repair took place. (A hazardous waste is any waste material that may pose a present or potential hazard to human health or the environment when improperly disposed of, treated, stored, transported, or otherwise managed.)

The Transfer Act requires the parties involved in the transfer to certify that the property (1) has not been contaminated by hazardous wastes; (2) has been contaminated but has been cleaned up to the satisfaction of the DEP or a licensed environmental professional (LEP); (3) has been contaminated and not cleaned up, but they accept the liability for a clean up; or (4) has been contaminated and partially remediated but they accept liability for further remediation. The bill excludes from the

act's requirements the conveyance of an establishment through foreclosure of a municipal tax lien.

Transfer Act Forms

The law requires transferors to complete one or more of four different forms, depending on the presence of hazardous waste or hazardous substances, and the status of investigations and remediation. The transferor files a "Form I" when, (1) based on an investigation according to prevailing standards and guidelines, there has been no release of a hazardous waste or hazardous substance or (2) there has been no hazardous waste spill and the commissioner has issued a written determination, or an LEP has verified, that any hazardous substance spill has been properly cleaned up. The bill requires, in the second instance, that the parcel be investigated according to prevailing standards and guidelines.

By law, a transferor files a "Form II" when the parcel has been investigated according to prevailing standards and guidelines and been properly attested to by the commissioner or an LEP and (1) the commissioner or LEP determined that no remediation is needed, (2) the commissioner determined in writing or an LEP verified that any discharge has been properly remediated, or (3) the commissioner received a "Form IV" and no discharge or spill of a hazardous waste or hazardous substance has occurred since. (A Form IV certifies that the property was contaminated and has been remediated except for post-remediation monitoring DEP requires. The person signing the Form IV must agree to conduct post-remediation monitoring according to law.) The bill requires that, in the third instance, an LEP verify in writing that he has investigated the site according to prevailing standards and guidelines and that the establishment has been remediated in accordance with the remediation standards.

The law requires certifying parties (see BACKGROUND) to a Form I, Form III, or Form IV to provide the commissioner with certain documents at his request. The bill requires this of a party filing a Form II as well. The bill excuses parties filing a Form II request from the requirement they submit a complete environmental condition assessment to the commissioner but applies the requirement to those submitting a Form III. It also requires anyone filing a Form III or Form IV to notify people whose property abuts the parcel where the remediation occurred, rather than the affected business.

MOTOR VEHICLE EMISSIONS

By law, the DEP commissioner may create a program to allow the sale, purchase, and use of motor vehicles that comply with California emissions standards for the purpose of generating emission reduction credits. The bill authorizes him to incorporate specific California emission standards by reference.

KELDA LANDS

The bill gives utility company special police officers appointed by the public safety commissioner, conservation officers, special conservation officers, and patrolmen appointed by the DEP commissioner joint jurisdiction over property the state and the Nature Conservancy purchased for conservation purposes in 2001 (the Kelda lands). The officers will have the same authority to make arrests on the Kelda lands as they do on DEP-owned lands.

UNDERGROUND STORAGE TANKS

The bill requires, as of October 1, 2003, that people and municipalities install only underground storage tank systems that are double-walled, and prohibits the operation and use of other types of underground storage tanks that are installed after that date. It exempts residential underground storage tanks. It defines double-walled tanks as tanks that are (1) listed by the Underwriters' Laboratories, Inc. and (2) built using two complete shells with a continuous 360-degree space between them. The space must be continuously monitored using inert gas or liquid, or a vacuum, electronic, mechanical, or another approved monitoring method. A "double-walled underground storage tank system" is one or more double-walled underground storage tanks connected by double-walled piping and that uses thes piping to connect to any associated equipment.

BACKGROUND

Distressed Municipalities

The DECD commissioner designates distressed municipalities annually based on demographic and economic indicators. The 25 towns with the highest scores are considered distressed.

Urban Sites Remedial Action Program

This program provides for expedited remediation of polluted property that has potential economic development benefits for the state. Eligible sites must be located in either a distressed community or a target investment community. It also allows the remediation of sites, which, if cleaned up and developed, will improve the urban environment.

Transfer Act Certifying Parties

"Certifying party" means, in the case of a Form III or Form IV, a person associated with the transfer of an establishment who signs a Form III or Form IV and who agrees to investigate the parcel in accordance with prevailing standards and guidelines and to remediate pollution caused by any release at the establishment in accordance with the remediation standards and, in the case of a Form I or Form II, a transferor of an establishment who signs the certification.

Legislative History

The House referred the bill to the Judiciary Committee and the Finance, Revenue and Bonding Committee on April 30 and May 13, respectively. The committees reported the bill favorably on May 6 and May 15.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute
Yea 27 Nay 0

Judiciary Committee

Joint Favorable Report
Yea 31 Nay 0

Finance, Revenue and Bonding Committee

Joint Favorable Report
Yea 40 Nay 0